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Senate Drops 'Intent' Clause Tough Agent Disclosure Law Gains

By George Lardner Jr.
Washington Post Staff Writer

Handing the CIA and the Reagan administration a major victory, the Senate voted yesterday to drop a criminal intent clause from a bill making it a crime to disclose the names of U.S. intelligence operatives.

By a surprisingly lopsided vote of 55 to 39, Sen. John H. Chafee (R-R.I.) won approval of a looser standard that would outlaw such disclosures when made with "reason to believe" that such activities would impair or impede the foreign intelligence activities of the United States.

The controversial measure, which could come up for Senate passage today, would for the first time in American history make it a crime to publish information even when obtained from public records.

The identities of CIA station chiefs and other intelligence officers assigned to American embassies overseas frequently can be gleaned from library-shelf documents such as old editions of the State Department's Biographic Register.

White House and CIA lobbyists teamed up to help put Chafee's proposal across and, illustrating the importance the administration attached to the measure, Vice President Bush presided over the vote. Bush, a former CIA director, also made about half a dozen calls to selected senators last week, according to Chafee.

"We took a bath," Jerry Berman, legislative counsel for the American Civil Liberties Union, conceded after the vote. He said three senators who had indicated they would vote for a criminal intent clause wound up on

the other side along with a number of other senators who had been thought to be "leaning" toward the stiffer standard of proof.

The Senate Judiciary Committee had voted last fall to require a showing of an "intent to impair or impede the foreign intelligence activities of the United States" on the part of journalists and other outsiders prosecuted under the law.

Chafee, however, contended it would be too difficult to secure convictions under an "intent" standard, which he argued "provides a loophole big enough to drive a truck through."

Meeting with reporters after the vote, Chafee insisted that the "legitimate press" could still cover the CIA adequately without "naming names."

"Don't give the impression now that you're being absolutely handcuffed," Chafee admonished. "I don't think the CIA is going to go racing around trying to nab everybody. You know very well the type of publication the bill is aimed at."

Journalistic organizations such as the Society of Professional Journalists, the American Newspaper Publishers Association and the National Newspaper Association had joined in lobbying against the Chafee amendment on grounds that it would criminalize even news stories aimed at disclosing illegal or improper intelligence activities and would stifle the publication of many legitimate articles.

Chafee denied that, insisting journalists would have "one whale of a defense" anytime they named names in disclosing an illegal operation. He suggested that one story along that line, for example, would not constitute "a pattern of activities intended to identify and expose covert agents," which his amendment also requires.

The Rhode Island Republican objected strenuously on the Senate floor, however, when Sen. Bill Bradley (D-N.J.) moved to tone down the Chafee amendment by more precisely defining "pattern of activities."

Bradley asked for a roll call vote on his proviso, but it was put off until today.

Senate passage of the bill would send it to a conference with the House, which adopted an even broader measure last September. It prohibits naming former as well as present CIA officers for five years after any overseas duty and forbids the identification for life of so-called contract "agents," informants and sources of operational assistance, unless the government declassifies their connections.

The bill also protects FBI counterintelligence and counterterrorism agents and informants as well as officers, agents and sources of other units such as the Defense Intelligence Agency.

Present and past government officials who have had access to such names would face up to 10 years in prison and \$50,000 fines for unauthorized disclosure. Journalists and other outsiders would face maximum penalties of three years in prison and \$15,000 fines.

The Society of Professional Journalists protested in a statement after yesterday's vote that it was unconstitutional and "strikes at the right of Americans to monitor their government." ACLU spokesman John Shattuck said his organization was "prepared to challenge its constitutionality in court, assuming it is signed into law."